



May 27, 2014

VIA ECF FILING

The Honorable Sidney H. Stein
United States District Court
Southern District of New York
500 Pearl Street
New York, NY 10007

RE: ***Tighe v. PNC Bank, N.A.***
No. 1:14-cv-02107-SHS

Dear Judge Stein:

I write in regard to the disagreement among the Parties as to the language for the proposed stipulation to transfer. During the Scheduling Conference on May 15, 2014, the Court and counsel for the Parties recognized that transfer of the instant action to the Southern District of Ohio to be coordinated with *Lauren v. PNC Bank, N.A.*, et al., No. 2:14-cv-00230 (S.D. Ohio), was appropriate based on *Lauren's* status as the first-filed case against PNC and Assurant Defendants involving force-placed hazard insurance. Accordingly, the Court directed the Parties to determine whether they would agree to the transfer of this action to the Southern District of Ohio where *Lauren* is pending. Notably, Defendants raised no objection to this during the conference and made no reference to any other later-filed cases pending against Defendants. Plaintiff's counsel sent the attached proposed stipulation to Defendants acknowledging that *Lauren* was the first-filed case and that the parties therefore consented to the transfer of the instant action to the Southern District of Ohio.

Curiously, Defendants refused to agree to the proposed stipulation because they did not want to reference in the stipulation the indisputable fact that *Lauren* is the first-filed case. In the letter sent to the Court by Mr. Scott on behalf of the Defendants, Mr. Scott asserts a concern that language in the proposed stipulation "might later be argued to apply, or be relevant to, other actions that have been filed, by different plaintiffs' counsel in other jurisdictions relating to PNC's lender placed insurance program." ECF. No. 38 at p.1. The only other force-placed insurance action, besides *Lauren*, pending against PNC and Assurant Defendants is *Colonia v. PNC Bank, N.A., et al.*, 12-cv-21085 (S.D. Fla.), a case that was filed almost a year after *Lauren*. Assurant Defendants have been accused of orchestrating collusive settlements in other recent force-placed insurance settlements in Florida with the same plaintiff's counsel who filed *Colonia*. Those settlements share a common trait – they are entirely "claims-made" and putatively release defendants of hundreds of millions of dollars of liability claims in exchange for the guaranteed payment of class counsel's attorneys' fees but little more. The Defendants' refusal to acknowledge that *Lauren* is the first-filed case, and that the transfer of the instant action to the Southern District of Ohio is appropriate pursuant to the first-filed rule, is likely



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because PNC and Assurant Defendants are scheming to collude with plaintiff's counsel in Florida on another settlement detrimental to the class and they fear that by acknowledging the "first-filed" status of *Lauren* they risk having *Colonia* transferred pursuant to the first-filed rule before they can effectuate their scheme.

Plaintiff herein consents to the transfer of the instant action to the Southern District of Ohio pursuant to the first-filed rule and believes that any transfer Order should recognize that as the basis for the transfer.

Respectfully,

A handwritten signature in black ink, appearing to read "Tyler S. Graden". The signature is written in a cursive, flowing style.

Tyler S. Graden

Enclosure

cc: All counsel of record (w/enc.)

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

LIBBY B. TIGHE, individually and on behalf of all
others similarly situated,

Plaintiff,

v.

PNC BANK, N.A, ALPINE INDEMNITY
LIMITED, ASSURANT, INC., AMERICAN
SECURITY INSURANCE COMPANY, and
STANDARD GUARANTY INSURANCE
COMPANY

Defendants.

Civil Action No. 1:14-cv-2107 (SHS)

**JOINT STIPULATION AND
[PROPOSED] ORDER**

JOINT STIPULATION AND [PROPOSED] ORDER

WHEREAS, on March 25, 2014, Plaintiff in the above-captioned action filed her Complaint against PNC Bank, N.A., Alpine Indemnity Limited (collectively, “PNC”), American Security Insurance Company (“ASIC”), Assurant, Inc., and Standard Guaranty Insurance Company (“SGIC”) (collectively, “Assurant”) (PNC, with Assurant, “Defendants”)¹ on behalf of a putative nationwide class of borrowers who have or had a residential mortgage loan or line of credit serviced by PNC and were charged for “lender-placed” or “force-placed” hazard insurance issued through Assurant, Inc. and/or Assurant, Inc.’s subsidiaries (Dkt. No. 1);

WHEREAS, *Lauren v. PNC Bank, N.A., et al.*, No. 2:14-cv-00230-GLF-TPK (the “*Lauren* action”) is the first-filed action currently pending and involving identical or nearly identical parties and issues regarding PNC’s force-placed hazard insurance practices;

¹ Plaintiff and Defendants are collectively referred to herein as the “Parties.”

WHEREAS, on May 16, 2014, this Court entered an Order instructing the Parties to determine whether or not they agree to have this action transferred to the Southern District of Ohio to join the *Lauren* action (Dkt No. 37);

WHEREAS, pursuant to the Court's May 16th Order, the Parties hereby stipulate and agree to the transfer of the above-captioned action to the Southern District of Ohio under 28 U.S.C. § 1404 to be coordinated with the first-filed *Lauren* action.

SO ORDERED:

Honorable Sidney H. Stein
United States District Judge

Parties' signatures appear on the following pages

Dated: May ____, 2014

Respectfully submitted,

**KESSLER TOPAZ
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Respectfully submitted,

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